

By Buchanan

H. B. No. 1547-43

A BILL TO BE ENTITLED

AN ACT

relating to continuation of the functions of the Texas Water Well Drillers Board and regulation of water well drillers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. SHORT TITLE. This Act shall be known and may be cited as "The Water Well Drillers Act."

Sec. 2. DEFINITIONS. The following words and phrases as used in this Act shall have the following meanings unless a different meaning clearly appears from the context. The singular form shall also mean plural form and the masculine gender shall also include the feminine and neuter genders.

(a) "Person" shall mean any individual, whether or not connected with a firm, partnership, association, corporation, or any other group or combination acting as a unit.

~~[(b)--"Commission"--shall-mean-the-Texas-Water--Commission--or its-successor-]~~

(b) ~~[(e)]~~ "Board" shall mean the Texas Water Well Drillers Board.

(c) "Executive director" shall mean the executive director of the Texas Department of Water Resources.

(d) "Department" shall mean the Texas Department of Water

1     Resources.

2             (e) [(d)] "Water well" shall mean any artificial excavation  
3     constructed for the purpose of producing ground water. The term,  
4     however, shall not include any test or blast holes in quarries or  
5     mines, or any well or excavation for the purpose of exploring for,  
6     or producing oil, gas, or any other minerals unless the holes are  
7     used to produce ground water.

8             (f) [(e)] "Water well driller" shall mean any person  
9     (including owner, operator, and drilling supervisor) who engages  
10    for compensation in the drilling, boring, coring, or construction  
11    of any water well in this State. The term, however, shall not  
12    include any person who drills, bores, cores, or constructs a water  
13    well on his own property for his own use or a person who assists in  
14    the construction of a water well under the direct supervision of a  
15    licensed [~~registered~~] water well driller and is not primarily  
16    responsible for the drilling operations.

17            (g) [(f)] "Licensed [~~Registered~~] water well driller" shall  
18    mean any person who holds a license [~~certificate~~] issued by the  
19    State of Texas pursuant to the provisions of this Act.

20            (h) [(g)] "Pollution" shall mean the changing of the  
21    physical, thermal, chemical, or biological quality of, or the  
22    contamination of, any water in a way that makes the water harmful  
23    to humans, animal life, vegetation, or property or to the public  
24    health, safety, or welfare or that impairs the usefulness or the  
25    public enjoyment of the water for any lawful or reasonable purpose  
26    [~~an-impairment-of-the-physical,-chemical,-or-biological--properties~~  
27    ~~of--water-by-the-acts-or-instrumentalities-of-man-to-a-degree-which~~

1 results-in-a-material-and-adverse-effect-upon--the--quality--as--to  
2 destroy-possible-consumptive-or-beneficial-use-of-such-waters].

3 (i) [~~h~~] "Well log" shall mean a log accurately kept, at  
4 the time of drilling, showing the depth, thickness, character of  
5 the different strata penetrated, location of water-bearing strata,  
6 depth, size and character of casing installed, together with any  
7 other data or information required by the Board, on forms  
8 prescribed by the Board.

9 (j) [~~i~~] "Water Well Drillers Board" shall mean an  
10 examining board consisting of nine (9) members, all [~~three-of-whom~~  
11 ~~shall-be-ex-officio-nonvoting-members-and-six~~] of whom shall be  
12 voting members appointed by the Governor with the advice and  
13 consent of the Senate as hereinafter provided.

14 (k) [~~j~~] "License [~~Registration~~] fee" shall mean the  
15 initial fee to be paid by a driller under this Act [~~which-shall-be,~~  
16 ~~unless-otherwise-provided-herein,-\$25.00~~].

17 (l) [~~k~~] "Renewal fee" shall mean that fee paid by a  
18 previously licensed [~~registered~~] driller [~~which-shall-be-\$25.00-per~~  
19 ~~annum~~].

20 (m) [~~l~~] "Examination fee" shall mean that [~~\$10.00~~]  
21 non-refundable fee required of each applicant for each examination.

22 (n) "Executive secretary" shall mean the executive secretary  
23 of the Board.

24 Sec. 3. LICENSE [~~REGISTRATION~~] REQUIRED. (a) It shall be  
25 unlawful for any person to act as or to offer to perform services  
26 as a water well driller without first obtaining a license  
27 [~~certificate-of-registration~~] in the manner prescribed herein and

1 pursuant to the rules of the Water Well Drillers Board.

2 (b) Applications shall contain the name of the applicant,  
3 his business address, his permanent mailing address, and such other  
4 relevant information as the Board may require.

5 (c) At the time of making application, each applicant shall  
6 pay to the executive secretary [~~Commission~~] the required  
7 examination fee which shall be non-refundable; and the successful  
8 candidates upon notification of eligibility shall pay to the  
9 executive secretary [~~Commission~~] the license [~~registration~~] fee.

10 (d) All licenses [~~certificates-of-registration~~] issued under  
11 this Act shall expire on August 31 of each year; and on or before  
12 that day, each person holding a license [~~certificate--of~~  
13 ~~registration~~] shall pay to the executive secretary [~~Commission--the~~  
14 ~~sum--of--\$25.00--as~~] an annual renewal fee. [~~Provided-further,~~  
15 ~~however,-any-driller-who-allows-his-license-to-lapse-shall-be-given~~  
16 ~~a-one-year-grace-period-in-which-to-renew-his-certificate-by-paying~~  
17 ~~the-acerued-renewal-fee,-without-the-need-of--taking--the--drillers~~  
18 ~~examination-]~~ A person may renew his unexpired license by paying  
19 to the executive secretary before the expiration date of the  
20 license the required renewal fee. If a person's license has been  
21 expired for 90 days or less, the person may renew the license by  
22 paying to the executive secretary the required renewal fee and a  
23 fee that is one-half of the examination fee for the license. If a  
24 person's license has been expired for more than 90 days but less  
25 than two years, the person may renew the license by paying to the  
26 executive secretary all unpaid renewal fees and a fee that is equal  
27 to the examination fee for the license. If a person's license has

1 been expired for two years or more, the person may not renew the  
2 license. The person may obtain a new license by submitting to  
3 reexamination and complying with the requirements and procedures  
4 for obtaining an original license.

5 (e) The executive secretary shall maintain a current  
6 register of licensees.

7 (f) [ {e} ] A license [certificate-of-registration] shall not  
8 be transferable or assignable.

9 (g) [ {f} ] A duplicate license [certificate-of-registration]  
10 to replace a lost or destroyed license [certificate] shall be  
11 issued by the executive secretary [Commission] upon proper  
12 application and payment of a [ \$1.00 ] fee.

13 [ {g} ]--Any-water-well-driller-in-this-State-on--the--effective  
14 date-of-this-Act-shall-be-entitled-to-a-certificate-of-registration  
15 upon--the--filing--of-an-application-no-later-than-August-31--1966,  
16 and-the-payment-of-a-\$25.00-registration-or-renewal-fee.]

17 (h) The Board shall establish reasonable and necessary fees  
18 for the administration of this Act.

19 (i) [ {h} ] Each applicant shall have been a resident of the  
20 State of Texas for not less than 90 days prior to making  
21 application for a license [registration] as a water well driller.

22 Sec. 3A. LICENSES. The board by rule may adopt a system  
23 under which licenses [certificates--of--registration] expire on  
24 various dates during the year. For the year in which the license  
25 [certification] expiration date is changed, license [certificate]  
26 renewal fees payable on August 31 shall be prorated on a monthly  
27 basis so that each license [certificate] holder shall pay only that

1 portion of the license [~~certification~~] renewal fee which is  
2 allocable to the number of months during which the license  
3 [~~certification~~] is valid. On renewal of the license  
4 [~~certification~~] on the new expiration date, the total license  
5 [~~certification~~] renewal fee is payable.

6 Sec. 4. ENDORSEMENT [~~RECIPROCITY~~]. The Board may develop  
7 rules specifying grounds by which the executive secretary may waive  
8 any license requirement for an applicant with a valid license from  
9 another state having license requirements substantially equivalent  
10 to those of this state [~~The Commission, upon application therefor~~  
11 ~~and upon the payment of the proper registration fee, may issue a~~  
12 ~~certificate of registration as a registered water well driller to~~  
13 ~~any person who holds a certificate of qualification or registration~~  
14 ~~issued to him by proper authority in any state or territory or~~  
15 ~~possession of the United States, or of any other country, if the~~  
16 ~~registration standard under which said certificate was issued is of~~  
17 ~~a standard not lower than that specified by the provisions of this~~  
18 ~~Act, and the rules of the Water Well Drillers Board promulgated~~  
19 ~~pursuant to the provisions hereof, and if that particular state,~~  
20 ~~territory, or possession of the United States, or country, extends~~  
21 ~~similar privileges to the persons registered under the provisions~~  
22 ~~of this Act, provided, however, that before such applicant may be~~  
23 ~~registered, he must show compliance with the residency requirements~~  
24 ~~of Section 3, subsection (h) hereof. The Board shall keep the~~  
25 ~~Commission informed of what states, territories, possessions, and~~  
26 ~~countries fulfill these reciprocal requirements~~].

27 Sec. 5. REPORTING OF WELL LOGS. Every licensed [~~registered~~]

1 water well driller drilling, deepening or otherwise altering a  
2 water well within this State shall make and keep, or cause to be  
3 made and kept, a legible and accurate well log, and within thirty  
4 (30) [~~sixty--(60)~~] days from the completion or cessation of  
5 drilling, deepening or otherwise altering such a water well, shall  
6 deliver or transmit by certified mail a copy of such well log to  
7 the executive director [~~Commission~~], and the owner thereof or the  
8 person having had such well drilled. The well log required herein  
9 shall at the request in writing to the executive director  
10 [~~Commission~~], by certified mail, by the owner or the person having  
11 such well drilled be held as confidential matter and not made of  
12 public record.

13 Sec. 6. WATER WELL DRILLERS BOARD. (a) The Water Well  
14 Drillers Board shall be composed of nine (9) members appointed by  
15 the governor. [~~7--three-ex-officio-and-six-appointed-as-follows,--to~~  
16 ~~wit:~~

17 [~~(a)--One--(1)--member--of--the--Board--shall--be--the--chairman--of~~  
18 ~~the--Texas--Water--Commission--or--a--representative--from--his--staff~~  
19 ~~appointed--by--him--who--shall--be--a--nonvoting--member--and--shall--serve--in~~  
20 ~~an--advisory--capacity--only.--In--the--event--that--the--functions--of--the~~  
21 ~~Texas--Water--Commission--are--transferred--to--the--Texas--Water~~  
22 ~~Development--Board,--then--the--member--appointed--hereby--shall--be--the~~  
23 ~~Executive--Director--of--the--Texas--Water--Development--Board--or--a~~  
24 ~~representative--from--his--staff--appointed--by--him.~~

25 [(b)--One--(1)--member--shall--be--the--Executive--Secretary--of--the  
26 State--Water--Pollution--Control--Board--or--a--representative--from--his  
27 staff--appointed--by--him--and--shall--also--be--a--nonvoting--member--and

1 ~~shall-serve-in-advisory-capacity-only-~~

2 ~~[ (e) -- One (1) member shall be the chairman of the State Board~~  
3 ~~of Health or a representative from his staff appointed by him and~~  
4 ~~shall also be a nonvoting member and shall serve in an advisory~~  
5 ~~capacity only. ]~~

6 (b) [(d)] Six (6) members shall be water well drillers who  
7 have [appointed by the Governor with the advice and consent of the  
8 Senate, under] the following qualifications [conditions, to wit]:

9 (1) Each such driller shall be a citizen of the State of  
10 Texas.

11 (2) Each such driller shall have [a minimum of ten years']  
12 experience in the water well drilling business prior to his  
13 appointment.

14 (3) Each such driller shall be conversant in water well  
15 drilling, completion and plugging methods and techniques.

16 (4) Each such driller shall be a licensed [registered] water  
17 well driller.

18 (5) One driller shall be selected from the State at large  
19 and one of each such drillers shall be selected from the following  
20 geographic areas of the State of Texas:

21 A. Gulf Coast Area.

22 B. Trans-Pecos Area.

23 C. Central Texas Area.

24 D. North-East Texas Area.

25 E. Panhandle-South Plains Area.

26 (6) [(e)] It is further provided that no more than one (1)  
27 driller [Board] member may be employed by or own an interest in the



1 same company, firm or business association which is engaged in any  
2 phase of the water well drilling business.

3 [ ~~{f}~~--The--first-six-~~{6}~~-Board-members-shall-be-appointed-for  
4 the-following-terms--two-~~{2}~~-for-two-~~{2}~~-years;-two-~~{2}~~--for--four  
5 ~~{4}~~-years;-and-two-~~{2}~~-for-six-~~{6}~~-years- ]

6 (c) Three members must be representatives of the general  
7 public. A person is not eligible for appointment as a public  
8 member if the person or the person's spouse:

9 (1) is licensed by an occupational regulatory agency in the  
10 field of water well drilling; or

11 (2) is employed by, participates in the management of, or  
12 has, other than as a consumer, a financial interest in, a business  
13 entity or other organization related to the field of water well  
14 drilling.

15 (d) [ ~~{g}~~ ] All terms shall expire on September 15 and all  
16 regular appointments shall be for terms of six (6) years.

17 [ ~~{h}~~--The-initial-appointments-of-the-six-~~{6}~~--members--shall  
18 be-made-immediately-following-the-effective-date-of-this-Act-

19 [ ~~{i}~~--The--six--~~{6}~~--appointed--Board--members--shall-receive  
20 compensation-and-travel-allowance-as-the-Legislature-may-provide-in  
21 the-General-Appropriation-Act- ]

22 (e) Each member of the Board is entitled to a per diem as  
23 set by legislative appropriation for each day that the member  
24 engages in the business of the Board.

25 (f) [ ~~{j}~~ ] The Board shall hold meetings [a--regular--annual  
26 meeting;--it-may-hold-special-meetings] at the call of the chairman  
27 or the executive secretary [at-the-request-of-three-Board-members].

1           (g) [~~h~~] A majority of the Board is a quorum for conducting  
2 business.

3           (h) [~~i~~] The Board shall elect a chairman[~~7--who--shall--be~~  
4 ~~presiding--officer,--and-who--shall--not--vote--except--when--there--shall~~  
5 ~~be--a--tie--vote,~~] by a majority vote at the first regular meeting  
6 each year.

7           (i) [~~m~~] The Board shall prepare [~~and-grade~~] examinations  
8 and pass upon qualifications of applicants for licenses and cause  
9 to be issued licenses to those who qualify.

10          (j) [~~n~~] The Board shall design written examinations in  
11 such a manner as to disqualify any person lacking in the necessary  
12 knowledge of drilling, completion and plugging methods and  
13 techniques and of ground water formations to the extent that the  
14 performance by such person of services as a water well driller  
15 would create a serious risk of polluting fresh water. Provided,  
16 however, that each applicant shall have the right to have such  
17 examination given him orally, in lieu of in writing.

18          [~~e~~--A-person-who-passes-the-examination-given-by-the--Board  
19 is-entitled-to-be-licensed-under-this-Act-]

20          (k) [~~p~~] Administration of examination:

21          (1) The executive secretary [~~Commission~~] shall offer  
22 examinations prepared by the Board at least once a year and more  
23 frequently if more than 10 persons petition the Board [~~Commission~~]  
24 for an additional examination, or the Board should so provide.

25          (2) The examination shall be so administered so that the one  
26 who grades an examination does not know whose paper he is grading.

27          (3) The executive secretary [~~Commission~~] shall maintain

1 files of examination papers. A person, at any time within six  
2 months of the date that he is notified of the results of an  
3 examination, is entitled to inspect his examination paper during  
4 normal business hours at the executive secretary's [Commission's]  
5 office for the purpose of challenging the propriety of the  
6 questions, the method of grading, and the accuracy of grading.

7 [ (4) -- All -- successful applicants who pass the examination may  
8 pay the \$25.00 registration fee to -- the -- Commission -- and -- obtain -- a  
9 drillers registration certificate. ]

10 (1) [ (4) ] The person who fails an examination may apply for  
11 a subsequent examination, but must pay the application fee each  
12 time he applies. [ He may not, however, be counted among the ten  
13 (10) -- applicants -- necessary -- to -- petition -- for -- an -- additional  
14 examination. ]

15 Sec. 6a. APPLICATION OF SUNSET ACT. The Texas Water Well  
16 Drillers Board is subject to the Texas Sunset Act, as amended  
17 (Article 5429k, Vernon's Texas Civil Statutes). Unless [ -- and  
18 unless ] continued in existence as provided by that Act, the board  
19 is abolished, and this Act expires effective September 1, 1993  
20 [1981].

21 Sec. 7. RULES AND REGULATIONS. (a) The Board shall adopt,  
22 prescribe, promulgate, and enforce all rules and regulations  
23 reasonably necessary to effectuate the provisions of this Act,  
24 including all rules governing applications for a license  
25 [ registration certificates ], qualifications of applicants, marking  
26 of water well drilling rigs and equipment, standards of conduct for  
27 licensed [ registered ] water well drillers and all rules governing

1 procedure and practice before the Board. Be it further provided,  
2 however, that before the Board may adopt any substantive rule under  
3 this Act, it must mail a copy of the proposed rule or amendment  
4 together with an informative summary of the rule or amendment to  
5 each person licensed under this Act, at least twenty (20) days  
6 prior to the proposed effective date of such a proposed rule. The  
7 procedural rules adopted by the Board shall be filed with the  
8 Secretary of State and shall become effective thirty (30) days  
9 thereafter.

10 (b) Full authority is given the Board to enforce by  
11 injunction or other appropriate remedy, in courts of competent  
12 jurisdiction, any and all reasonable rules, regulations, decisions,  
13 determinations and orders promulgated by it which do not conflict  
14 with any law. It shall be the duty of the Attorney General to  
15 represent the Board when requested to do so.

16 (c) All rules and regulations proposed to be adopted and  
17 promulgated by the Board shall be approved in writing by the  
18 Attorney General and placed on file in the office of the Secretary  
19 of State for public inspection for at least thirty (30) days prior  
20 to their effective date. Any changes, alterations or revocations  
21 of such rules and regulations shall be likewise approved in writing  
22 by the Attorney General and which changes, alterations or  
23 revocations shall be filed in the office of Secretary of State  
24 prior to their effective date.

25 Sec. 8. REVOCATION OF LICENSES [~~CERTIFICATES-----OF~~  
26 ~~REGISTRATION~~]. (a) The license [~~certificate-of-registration~~] of  
27 any [~~registered~~] water well driller who violates any provision of

1 this Act or any substantive rule or regulation of the Board  
2 promulgated under the authority of this Act may be revoked or  
3 suspended by the Board. Grounds for revocation or suspension of a  
4 driller's license [~~certificate~~] shall include intentional  
5 misstatement or misrepresentation of fact on an application or well  
6 log; failure to keep and transmit water well logs as provided  
7 herein; failure to advise a person for whom a well is being drilled  
8 that injurious water has been encountered, is a pollution hazard,  
9 and must be forthwith plugged in an acceptable manner; or being  
10 found to be an incompetent water well driller.

11 (b) The Board shall, before suspending or revoking any  
12 license [~~certificate-of-registration~~], notify the holder in writing  
13 of any changes made in order to afford such holder an opportunity  
14 to be heard, which notification shall be given at least ten (10)  
15 days prior to the date set for hearing, and which shall prescribe  
16 the time and place of the hearing. Such written notice may be  
17 served by mailing same by registered mail to the last known  
18 business address of such person. At such hearing such person and  
19 all persons complaining against him, as well as any other witness  
20 whose testimony is relied upon to substantiate the charges made,  
21 shall be entitled to be present. He shall also be entitled to  
22 present evidence, oral and written as may be relevant to the  
23 inquiry. In such hearing all witnesses shall be duly sworn and a  
24 record of the proceedings shall be taken. Any party to the  
25 proceedings desiring it shall be furnished with a copy of the  
26 record upon the payment to the Board of a fee not to exceed fifty  
27 cents (50¢) per page.

1           (c) Every decision and order in a revocation or suspension  
2 hearing rendered by the Board shall be in writing and shall set  
3 forth briefly the findings of fact and Board's conclusions.  
4 Parties to the proceedings shall be notified of the decision or  
5 order in person or by mail and forwarded a copy of same; such  
6 orders or decisions shall be transmitted no later than thirty (30)  
7 days of conclusion of the hearing.

8           Sec. 9. APPEAL OF BOARD ACTION. (a) A person affected by  
9 any ruling, order, decision, or other act of the Board may appeal  
10 by filing a petition in a District Court in the county in which the  
11 alleged violation occurred.

12           (b) Petition must be filed within thirty (30) days after the  
13 date of the Board's action, or, in case of a ruling, order, or  
14 decision, within thirty (30) days after its effective date.

15           (c) Service of citation on the Board must be accomplished  
16 within thirty (30) days after the date the petition was filed.  
17 Citation may be served on the executive secretary [~~Executive~~  
18 ~~Director~~] of the [~~Water-Development~~] Board or on any member of the  
19 [~~Water-Well-Drillers~~] Board.

20           (d) The plaintiff shall pursue his action with reasonable  
21 diligence.

22           (e) Any ruling of the Board may be appealed in the same  
23 manner as appeals from the justice court to the county court. All  
24 administrative or executive action taken prior to the filing of the  
25 suit shall continue in force and effect until the rights of the  
26 parties thereto shall be determined by the court upon a trial of  
27 the matters in controversy.

1           Sec. 10. DUTIES OF THE DEPARTMENT [COMMISSION]. (a) The  
2 department [Commission] shall furnish the Board with necessary  
3 clerical [administrative] services, including space for holding  
4 examinations; [~~preparing--examinations;~~] printing examinations;  
5 printing and mailing licenses; sending notices, before August 1 of  
6 each year that license must be renewed; collecting fees and issuing  
7 receipts; [~~keeping-a--current--register--of--licensees;~~] employing  
8 secretarial assistance; replying to routine requests for  
9 information; printing forms and information; typing all letters to  
10 be reproduced; maintaining records and completed examinations; and  
11 keeping records of receipts and disbursements; providing necessary  
12 legal services; and providing necessary investigative services, and  
13 the department [Commission] shall promulgate procedures and  
14 standards for plugging water wells [~~under-Section-15-of-this--Act~~].

15           (b) The Board shall have access to information kept by the  
16 department [Commission] under this Act.

17           (c) The department [Commission] shall adopt the necessary  
18 procedural rules in order to carry out the imposed duties under  
19 this Section of this Act.

20           [~~(d)--Full-authority-is-given-the-Commission--to--enforce--by~~  
21 ~~injunction--or--other--appropriate--remedy,--in-courts-of-competent~~  
22 ~~jurisdiction,--any---and---all---rules,---regulations,---decisions,~~  
23 ~~determinations--and--orders-promulgated-by-it-which-do-not-conflict~~  
24 ~~with-any-law.~~]

25           Sec. 11. EXECUTIVE SECRETARY. (a) The Board shall employ  
26 an executive secretary to serve at the pleasure of the Board.

27           (b) The executive secretary is entitled to receive necessary

1 travel expenses, in the same manner as a member of the Board, and a  
2 salary as prescribed by the legislature.

3 (c) The executive secretary shall coordinate any  
4 administrative, investigative, or legal services provided to the  
5 Board by the department.

6 (d) The executive secretary may initiate field inspections  
7 for alleged violations of this Act and consumer complaints.

8 (e) The executive secretary shall prepare information of  
9 consumer interest describing the regulatory functions of the Board  
10 and describing the procedures by which consumer complaints are  
11 filed with and resolved by the Board. The executive secretary  
12 shall make information available to the general public and  
13 appropriate state agencies. Each well log provided to persons  
14 having a well drilled shall contain the name, mailing address, and  
15 telephone number of the Board.

16 (f) The executive secretary shall keep an information file  
17 about each complaint filed with the Board relating to a licensee.

18 (g) If a written complaint is filed with the executive  
19 secretary relating to a licensee, the executive secretary, at least  
20 as frequently as quarterly, shall notify the parties to the  
21 complaint of the status of the complaint until final disposition  
22 unless the notification would jeopardize an undercover  
23 investigation.

24 [See--11--EXCEPTION--OF--DROUGHT--DISASTER--AREAS--Upon  
25 petition-of-the-commissioners-court-of-any-county-the-Governor--may  
26 proclaim--the--county--a--drought--disaster--area--If-the-Governor  
27 issues-the-proclamation-that-the-county-is-a-drought-disaster-area,



1 the-terms-and-provisions-of-this-Act-are-suspended-in-such-a-county  
2 for-the-length--of--time--specified--in--the--proclamation,--except  
3 insofar-as-said-Act-applies-to-the-plugging-of-water-wells.]

4 Sec. 12. DISPOSITION OF REVENUES. All money collected by  
5 the executive secretary [Commission] under the provisions of this  
6 Act shall be placed in the General Revenue Fund.

7 Sec. 13. PENAL PROVISIONS. Any person who fails to comply  
8 with the provisions of this Act, or with any rule or regulation  
9 promulgated by the board or the department [commission] under this  
10 Act, [or-with-any-term,-condition-or-provision-in-his-permit-issued  
11 pursuant-to-this-Act,] shall be subject to a civil penalty in any  
12 sum not exceeding One Thousand Dollars (\$1,000) for each day of  
13 noncompliance and for each act of noncompliance, as the court may  
14 deem proper. The action may be brought by the board [or-the  
15 commission,-as-appropriate,] in any court of competent jurisdiction  
16 in the county where the offending activity is occurring or where  
17 the defendant resides. Full authority is also given the executive  
18 director [board-or--commission], as appropriate, to enforce by  
19 injunction, mandatory injunction or other appropriate remedy, in  
20 courts having jurisdiction in the county where the offending  
21 activity is occurring, [any--and--all--reasonable--rules--and  
22 regulations-promulgated-by-it-which-do-not-conflict-with--any--law,  
23 and--all--of-the-terms,-conditions-and-provisions-of-permits-issued  
24 by-the-board-or-commission] pursuant to the provisions of this Act.  
25 At the request of the board [or--the--commission], the Attorney  
26 General shall institute and conduct a suit in the name of the State  
27 of Texas for injunctive relief or to recover the civil penalty, or

1 for both the injunctive relief and civil penalty, authorized in  
2 this section. Any party to a suit may appeal from a final judgment  
3 as in other civil cases. The obtaining of a license [~~permit~~] under  
4 the provisions of this Act by a person shall not act to relieve  
5 that person from liability under any statutory law or the Common  
6 Law.

7       Sec. 14. MARKING RIGS WITH IDENTIFICATION NUMBER. It is the  
8 duty of all licensed [~~registered~~] water well drillers to see that  
9 all rigs used by them or their employees in the water well drilling  
10 business are marked with legible identification numbers at all  
11 times; the "identification number" to be used on the rigs shall be  
12 the "license number" which appears on the driller's license  
13 [~~registration--certificate~~]; the Board shall set out in detail in  
14 its rules the specific method and manner for marking the rigs.  
15 [~~The--driller--shall--furnish--a--sworn--statement--that--he--has--complied~~  
16 ~~with--this--provision--of--the--Act--with--his--annual--renewal--fee--each~~  
17 ~~year.~~] Any licensed driller has thirty (30) [~~one-hundred-eighty~~  
18 ~~(180)~~] days to comply with the regulations provided in this section  
19 [~~Section-14~~].

20       Sec. 15. PLUGGING OF WELLS. (a) It shall be the duty of  
21 each driller licensed [~~registered~~] under this Act to inform  
22 forthwith the landowner or person having a well drilled when water  
23 [~~is~~] injurious to vegetation, to land or to fresh water has been  
24 encountered and such well must be plugged or properly completed in  
25 order to avoid injury or pollution.

26       (b) It shall be the duty of the landowner or person having a  
27 well drilled, upon being so informed, to see that such a well is

1    forthwith plugged or completed under standards and procedures  
2    promulgated [~~set~~] by the department [~~Texas-Water-Commission~~].

3            (c) It shall be the duty of whoever shall plug such a well  
4    to complete a plugging report within thirty (30) days and submit it  
5    to the executive director [~~Commission~~]; appropriate forms shall be  
6    furnished by the executive director [~~Commission~~] upon request.

7            Sec. 16 [~~17~~]. CONSTRUCTION. Nothing in this Act shall be  
8    construed as affecting the ownership, or the rights of owners of  
9    the land, in underground water.

10           Sec. 17 [~~18~~]. SEVERABILITY CLAUSE. If any provision of this  
11    Act or the application thereof to any person or circumstance is  
12    held invalid, such invalidity shall not affect other provisions or  
13    applications of the Act which can be given effect without defeating  
14    the purpose or objective of the provision, and to this end, the  
15    provisions of this Act are declared to be severable.

16           Sec. 18 [~~20~~]. TRANSFER OF FUNCTIONS. In the event that the  
17    functions of the Texas Department of Water Resources [~~Water~~  
18    ~~Commission~~] necessary to the proper implementation of its duties  
19    under this Act are transferred to [~~the-Texas-Water-Development~~  
20    ~~Board-or~~] any other agency, the authority given herein to the Texas  
21    Department of Water Resources [~~Water---Commission~~] shall be  
22    transferred to [~~the--Texas-Water-Development-Board-or~~] such other  
23    agency.

24           SECTION 2. Each valid certificate of registration issued by  
25    the board on or before September 1, 1981, continues in effect until  
26    its regular expiration date.

27           SECTION 3. (a) Except for the ex officio members, incumbent

1 members of the board on the effective date of this Act serve the  
2 remainder of their terms.

3 (b) The governor shall appoint one public member for a term  
4 expiring on September 15, 1983, one public member for a term  
5 expiring on September 15, 1985, and one public member for a term  
6 expiring on September 15, 1987.

7 SECTION 4. This Act takes effect September 1, 1981.

8 SECTION 5. The importance of this legislation and the  
9 crowded condition of the calendars in both houses create an  
10 emergency and an imperative public necessity that the  
11 constitutional rule requiring bills to be read on three several  
12 days in each house be suspended, and this rule is hereby suspended.

H. B. No. 1547-43

By Buchanan

A BILL TO BE ENTITLED

AN ACT

relating to continuation of the functions of the Texas Water Well Drillers Board and regulation of water well drillers.

MAR 4 1981

1. Filed with the Chief Clerk.

MAR 5 1981

2. Read first time and Referred to Committee on

Government Organizations

3. Reported \_\_\_ favorably (as amended) and sent to Printer at \_\_\_  
(as substituted)

4. Printed and distributed at \_\_\_

5. Sent to Committee on Calendars at \_\_\_

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)  
(Record Vote of \_\_\_ yeas, \_\_\_ nays, \_\_\_  
present, not voting).

7. Motion to reconsider and table the vote by which H.B. \_\_\_ was ordered  
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_ yeas,  
\_\_\_ nays, and \_\_\_ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed  
to suspend) by a four-fifths vote of \_\_\_ yeas, \_\_\_ nays, and \_\_\_  
present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote  
of \_\_\_ yeas, \_\_\_ nays, \_\_\_ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. \_\_\_ was finally passed  
prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_ yeas, \_\_\_  
nays, and \_\_\_ present, not voting).

12. Ordered Engrossed at \_\_\_

13. Engrossed.

14. Returned to Chief Clerk at \_\_\_

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on \_\_\_

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read  
first time.

20. Ordered not printed.

21. Regular order of business suspended by

(a viva voce vote.)

(\_\_\_ yeas, \_\_\_ nays.)

\_\_\_\_\_ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ 23. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 24. Caption ordered amended to conform to body of bill.

\_\_\_\_\_ 25. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

\_\_\_\_\_ 26. Read third time and passed by  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION: OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_ 27. Returned to the House.

\_\_\_\_\_ 28. Received from the Senate (with amendments.)  
(as substituted.)

\_\_\_\_\_ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record  
(Substitute) Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present,  
not voting).

\_\_\_\_\_ 30. Conference Committee Ordered.

\_\_\_\_\_ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record  
Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 32. Ordered Enrolled at \_\_\_\_\_

5